

DELEGATE SCANLAN: Then under your language, should bingo be declared to be a lottery by the Court of Appeals, under the old language and under your language, it would be illegal.

DELEGATE SHERBOW: Yes, because if the Court of Appeals should decide that what we have been living under for a hundred years, what the attorney general decided in 1935 and four attorneys general since, that all of them were wrong and that the definition includes something else, we will have to obey that law.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Did your Committee give any consideration about other possibilities of activity that would possibly be included under the definition of lottery? For instance, would a daily double better quinnella be regarded as lottery under the language proposed for inclusion in the Constitution?

DELEGATE SHERBOW: We did not consider it because horse racing in the State of Maryland is accepted as legal when operated within the meaning of the statutes which govern horse racing in the State of Maryland. The manner of betting and everything pertaining to betting is governed by either the statute or the rules of the Racing Commission and therefore as far as we were concerned, did not consider that as a part of lottery.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Did your Committee draw back from attempts to define lottery because of the difficulties in defining the term?

DELEGATE SHERBOW: On the contrary, we felt that lottery, as we understood it, is just what is so simple and which is now being complicated because of the bingo situation. Lotteries, as we understand them are the lotteries you read and know about in New York State, and in New Hampshire. Bingo is something totally different and is not lottery.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Is the definition or the understanding that you just stated in response to my last question, the clear and unequivocal intent of your committee in proposing SF Recommendation No. 2?

DELEGATE SHERBOW: Absolutely.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Mr. Chairman, I have listened to your statement and I read your report very carefully. It seems to me that the thrust of your prohibitional statement in the constitution is that lotteries are horribly sinful and lead to organized gambling and racketeering.

Let me ask you whether or not there are other equally evil things that ought to be constitutionally prohibited.

DELEGATE SHERBOW: I can only answer this to you. There are many evils which are the subject of no laws whatsoever. They are matters of morality. They are not in the constitution, not even in the statutes. This is a matter with one's own conscience.

We have here a specific situation, one with which the people of Maryland dealt with well over a century. You now have before you a decision that you have to make. Do you want to follow what has been done or do you want to change it? I say the reasons for not changing it are these. One, that the prohibition against lotteries is good. Secondly, it accomplishes no good to take it out. Thirdly, it brings evils of its own along with it.

I am not up here to say that we should begin now and statutorily or constitutionally define everything that is evil and proceed to correct it.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: Then what you are saying is that anything which is evil and which is prohibited by the existing Constitution should be continued into the 1967 constitution.

DELEGATE SHERBOW: Well, I do not know what you mean by that. Everything that is in, if you direct me specifically to what you are talking about, I will answer it. I am saying I am dealing now with one specific matter.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: The thrust of my question was, what test should we lay down for the prohibition of evils in the constitution? Your answer was, as I understood it, that this prohibition against this evil was in the present Constitution, therefore it should be continued in the next constitution. That was the only additional test that you gave me for prohibiting evils in the constitution.

DELEGATE SHERBOW: On the contrary, I thought we had emphasized the